

## APPEAL NO. 010729

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on January 23, 2001. With respect to the issues before her, the hearing officer determined that the appellant (claimant) did not sustain a compensable occupational disease injury on or about \_\_\_\_\_; that the claimant did not have disability from a compensable injury; and that the respondent (self-insured employer) is relieved of liability for workers' compensation benefits because of the claimant's failure to timely notify her employer of a claimed injury. The claimant appeals, contending that the decision is against the great weight and preponderance of the evidence. The self-insured employer responds, urging affirmance.

### DECISION

Affirmed.

The hearing officer determined that "based on the totality of the evidence, the claimant did not sustain a compensable injury on \_\_\_\_\_, nor did she timely report such an injury to her employer or establish good cause for late reporting," and that she did not have disability. The testimony and medical records were conflicting. The hearing officer stated that the inconsistent histories the claimant provided of her \_\_\_\_\_, injury was of critical importance.

The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)), resolves the conflicts and inconsistencies in the evidence (Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ)), and determines what facts have been established from the conflicting evidence. St. Paul Fire & Marine Insurance Company v. Escalera, 385 S.W.2d 477 (Tex. Civ. App.-San Antonio 1964, writ ref'd n.r.e.). The Appeals Panel will not disturb the challenged factual findings of a hearing officer unless they are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust and we do not find them so in this case. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951).

The decision and order of the hearing officer are affirmed.

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Philip F. O'Neill  
Appeals Judge

CONCUR:

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Gary Kilgore  
Appeals Judge

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Michael B. McShane  
Appeals Judge